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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,289	08/01/2003	Samuel Pearlman	PU 010211 CIP	5075

24498 7590 08/31/2005  
THOMSON LICENSING INC.  
PATENT OPERATIONS  
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EXAMINER

MCPHERSON, JOHN A

ART UNIT PAPER NUMBER

1756

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,289	PEARLMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John A. McPherson	1756	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. This Office Action is responsive to the Request for Reconsideration filed 6/20/05.

***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not provide basis for the subject matter of claims 16 and 17, as set forth in paragraph 1 of the Office Action mailed 12/14/05 and as further discussed below.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,013,400 to LaPeruta et al. (LaPeruta) in view of EP 0 146 226 (EP '226) for the reasons of record as set forth in paragraph 2 of the Office Action mailed 12/14/05 and as further discussed below.

***Response to Arguments***

4. Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive.

With respect to the objection to the specification, Applicant argues that support for the subject matter of claim 16 can be found at page 9, lines 3-5 of the specification. However, the Examiner does not agree that this section of the specification provides basis for the claimed limitation. Claim 16 presents the limitation that the third source position is located at least within " $\Delta/2$ " [sic, appears to be a typographic error, assumed to have intended " $\Delta X/2$ " based on the disclosure] of the primary source position  $-X$ . However, this portion of the specification describes the third source position as being between  $-X - \Delta X$  and  $-X + \Delta X$  (i.e. within  $\Delta X$  of  $-X$ , not within  $\Delta X/2$  of  $-X$ ). Therefore, the specification does not provide basis for the claimed range.

Similarly, Applicant argues that support for the subject matter of claim 17 can be found at page 10, lines 12-14 of the specification. However, the Examiner does not agree that this section of the specification provides basis for the claimed limitation. Claim 17 presents the limitation that the third source position is located at least within  $\Delta X/2$  of another primary source position  $+X$ . However, this portion of the specification describes the third source position as being between  $X - \Delta X$  and  $X + \Delta X$  (i.e. within  $\Delta X$  of  $+X$ , not within  $\Delta X/2$  of  $+X$ ). Therefore, the specification does not provide basis for the claimed range.

With respect to the rejection over LaPeruta in view of Yamazaki, Applicant argues that since LaPeruta does not describe or suggest exposing first, second and

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third photoresist layers using three sources, the presently claimed invention is patentable over LaPeruta. Additionally, Applicant argues that since Yamazaki does not describe or suggest exposing second and third photoresist layers asymmetrically, the presently claimed invention is patentable over Yamazaki. However, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, Applicant argues that since LaPeruta teaches an arrangement where each of the first, second and third light absorbing guardbands are formed using only two source locations, and Yamazaki teaches an arrangement wherein three equidistant source location are used for exposing, the combination of these references does not describe or suggest the presently claimed subject matter, thus the claimed invention is patentable over LaPeruta in view of Yamazaki. However, LaPeruta discloses the invention as presently claimed, except for the use of a third source at an inner position. Yamazaki teaches that a "three light source exposure method" comprising the addition of a third source at a reference position (corresponding to the inner source position of the present invention) is an improvement over a "two light source method" comprising exposing only from laterally offset positions. Therefore, the presently claimed invention is unpatentable over the combination of these references.

***Allowable Subject Matter***

5. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. McPherson whose telephone number is (571) 272-1386. The examiner can normally be reached on Monday through Friday, 8:00 AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John A. McPherson  
Primary Examiner  
Art Unit 1756

JAM  
8/26/05